

ESTTA Tracking number: **ESTTA627791**

Filing date: **09/17/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following parties oppose registration of the indicated application.

Opposers Information

Name	Happy Trails, LLC
Granted to Date of previous extension	09/17/2014
Address	2711 Centerville Road Suite 400 Wilmington, DE 19808 UNITED STATES

Name	The Children's Trust U/A Roy Rogers and Dale Evans Rogers Trust		
Entity	Partnership	Citizenship	Missouri
Composed Of:	Roy "Dusty" Rogers, Jr., Trustee		
Address	P.O. Box 360 Lampe, MO 65681 UNITED STATES		

Attorney information	Rebecca Finkenbinder McNees Wallace & Nurick 100 Pine Street Harrisburg, PA 17108 UNITED STATES trademarks@mwn.com Phone:717-232-8000
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Applicant Information

Application No	85931769	Publication date	05/20/2014
Opposition Filing Date	09/17/2014	Opposition Period Ends	09/17/2014
Applicant	Manifatture 7 Bell S.p.A. Campi Bisenzio (Firenze) Via Bruno Buozzi 172, 50013 ITALY		

Goods/Services Affected by Opposition

Class 018. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: LEATHER, UNWORKED OR SEMI-WORKED, IMITATION LEATHER, PURSES, SCHOOL BAGS, BUSINESS CARD CASES, CREDIT CARD CASES, TRAVELLING TRUNKS, BACKPACKS, WALLETS, LEATHER AND REUSABLE SHOPPING BAGS, ATTACHÉ CASES, BEACH BAGS, HANDBAGS, TRAVELLING BAGS, POUCHES OF LEATHER FOR PACKAGING, BRIEFCASES, CASE OF LEATHER, TRUNKS, VANITY CASES SOLD EMPTY, LEATHER KEY CASES, SUITCASES, BAGS FOR SPORT, LEATHER STRAPS, UMBRELLAS, CANES, WALKING STICKS, WHIPS, SADDLERY, HARNESS FITTINGS
Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: CLOTHING, NAMELY, SKIRTS,

PULLOVERS, SHIRTS, T-SHIRTS, BLOUSES, PANTS, DRESSINGGOWNS, PAJAMAS, VESTS, TIGHTS, STOCKINGS, JERSEYS, BATHROBES, OVERALLS, UNDERWEAR, SWEATERS, JUMPERS, TROUSERS, JEANS, SUITS, CEREMONIAL DRESSES, OUTER CLOTHING, NAMELY, OVERCOATS, COATS, STUFF JACKETS, JACKETS, PARKAS, KNITWEAR, NAMELY, KNIT TOPS, KNIT BOTTOMS, KNIT DRESSES CLOTHING OF LEATHER, NAMELY, LEATHER JACKETS, LEATHER COATS, CHILDREN'S CLOTHING, NAMELY, CHILDREN'S CLOTH BIBS, OVERALL SLEEPWEAR, ONE-PIECE GARMENTS, ROMPERS, LAYETTES, BATHING CAPS, BATHING SUITS, CLOTHING FOR GYMNASTICS, NAMELY, SHORTS, T-SHIRTS, WATERPROOF CLOTHING, NAMELY, RAINCOATS, FOOTWEAR, SLIPPERS, BATH SLIPPERS, BOOTS, BEACH SHOES, SANDALS, SPORT SHOES, HEADGEAR, NAMELY, HATS, CAPS, SOCKS, GARTERS, GLOVES, SHAWLS, TIES, NECKTIES, SCARVES, POCKET SQUARES, FURS, NAMELY, FUR STOLE, FUR JACKETS, FUR COATS, BELTS

Class 035. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: ADVERTISING; BUSINESS MANAGEMENT ASSISTANCE; DOCUMENT REPRODUCTION, WORD PROCESSING, ADMINISTRATIVE PROCESSING OF PURCHASE ORDERS, DISSEMINATION OF ADVERTISINGMATTER; PRESENTATION OF GOODS ON COMMUNICATION MEDIA, FOR RETAIL PURPOSES, NAMELY, ALLOWING THE CONSUMER TO VIEW AND BUY THE AFORESAID GOODS IN RETAIL STORES, NAMELY, THE BRINGING TOGETHER, FOR THE BENEFIT OF OTHERS, OF A VARIETY OF GOODS IN THE FIELD OF CLOTHING AND ACCESSORIES; ORGANIZATION OF TRADE FAIRS FOR COMMERCIAL OR ADVERTISING PURPOSES, ORGANIZATION OF EXHIBITIONS OF COMMERCIAL OR ADVERTISING PURPOSES, ORGANIZATION OF FASHIONSHOWS FOR ADVERTISING OR SELLING PURPOSES, PUBLICITY AGENCIES, COMMERCIAL ADMINISTRATION OF LICENSING OF GOODS AND SERVICES OF OTHERS, SPONSORSHIP SEARCH, BUSINESS MANAGEMENT OF HOTELS FOR OTHERS, COMMERCIAL MANAGEMENT FOR FRANCHISING; SALES PROMOTION FOR OTHERS; SALES PROMOTIONFOR OTHERS RELATING TO CLOTHING

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Attachments	A4097787.PDF(19596 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Facsimile or email (by agreement only) on this date.

Signature	/Rebecca Finkenbinder/
Name	Rebecca Finkenbinder
Date	09/17/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application of
Manifatture 7 Bell S.p.A.

Serial No. : 85/931,769
Mark : ROY ROGER'S
Filing Date : May 14, 2013
Published : Official Gazette
May 20, 2014

ROY "DUSTY" ROGERS, JR., AS TRUSTEE OF	:	
THE CHILDREN'S TRUST U/A ROY ROGERS	:	
AND DALE EVANS ROGERS TRUST,	:	
and	:	
HAPPY TRAILS, LLC,	:	
Opposers,	:	
	:	
v.	:	Opposition No.
	:	
MANIFATTURE 7 BELL S.P.A.,	:	Filed Electronically
Applicant.	:	

NOTICE OF OPPOSITION

Roy "Dusty" Rogers, Jr., a U.S. citizen having an address of P.O. Box 360, Lampe, Missouri 65681, United States, as Trustee of The Children's Trust U/A Roy Rogers and Dale Evans Rogers Trust (the "Trust"), a trust organized under the laws of the State of Missouri, and Happy Trails, LLC ("Happy Trails"), the exclusive licensee of the intellectual property rights owned by the Trust (the Trust and Happy Trails are collectively referred to hereinafter as "Opposers"), believe and allege they will be damaged by registration of the mark shown in Serial No. 85/931,769 and hereby oppose the same.

As grounds for opposition, Opposers allege that:

1. The late American singer and actor Roy Rogers, born Leonard Slye, was one of the most popular Western performers of his era, appearing, from the 1930s to the 1950s, in

nearly one hundred films as well as numerous television episodes of *The Roy Rogers Show*.

Roy Rogers, known as the "King of the Cowboys," achieved wide recognition and fame in the United States and around the world during his career.

2. The Trust is the owner of all right, title, and interest in and to the intellectual property rights associated with Roy Rogers' name and likeness, and is entrusted with the power to enforce such intellectual property rights.

3. In 2012, Happy Trails, LLC was created and granted an exclusive license to exploit all the intellectual property rights associated with Roy Rogers. As such, Happy Trails also is entrusted with the power to enforce such intellectual property rights. The Trust is a member of Happy Trails, LLC.

4. Upon information and belief, Manifatture 7 Bell S.p.A. ("Applicant") is an Italian corporation with a principal place of business at Campi Bisenzio (Firenze), Via Bruno Buozzi 172 50013, Italy.

5. Several years ago, Applicant contacted Opposers for the purpose of requesting a license to register and use the mark ROY ROGERS in connection with clothing items. No license was granted.

6. On May 13, 2013, Applicant filed an intent to use federal trademark application, Serial No. 85/931,769, for registration of the mark ROY ROGER'S in connection with the following goods:

Class 18: Leather, unworked or semi-worked, imitation leather, purses, school bags, business card cases, credit card cases, travelling trunks, backpacks, wallets, leather and reusable shopping bags, attaché cases, beach bags, handbags, travelling bags, pouches of leather for packaging, briefcases, case of leather, trunks, vanity cases sold empty, leather key cases, suitcases, bags for sport, leather straps, umbrellas, canes, walking sticks, whips, saddlery, harness fittings;

Class 25: Clothing, namely, skirts, pullovers, shirts, t-shirts, blouses, pants, dressing gowns, pajamas, vests, tights, stockings, jerseys, bathrobes, overalls, underwear, sweaters, jumpers, trousers, jeans, suits, ceremonial dresses, outer clothing, namely, overcoats, coats, stuff jackets, jackets,

parkas, knitwear, namely, knit tops, knit bottoms, knit dresses clothing of leather, namely, leather jackets, leather coats, children's clothing, namely, children's cloth bibs, overall sleepwear, one-piece garments, rompers, layettes, bathing caps, bathing suits, clothing for gymnastics, namely, shorts, t-shirts, waterproof clothing, namely, raincoats, footwear, slippers, bath slippers, boots, beach shoes, sandals, sport shoes, headgear, namely, hats, caps, socks, garters, gloves, shawls, ties, neckties, scarves, pocket squares, furs, namely, fur stoles, fur jackets, fur coats, belts; and

Class 35: Advertising; business management assistance; document reproduction, word processing, administrative processing of purchase orders, dissemination of advertising matter; presentation of goods on communication media, for retail purposes, namely, allowing the consumer to view and buy the aforesaid goods in retail stores, namely, the bringing together, for the benefit of others, of a variety of goods in the field of clothing and accessories; organization of trade fairs for commercial or advertising purposes, organization of exhibitions of commercial or advertising purposes, organization of fashion shows for advertising or selling purposes, publicity agencies, commercial administration of licensing of goods and services of others, sponsorship search, business management of hotels for others, commercial management for franchising; sales promotion for others; sales promotion for others relating to clothing.

(hereinafter referred to as "Applicant's Mark").

PRIORITY

7. Roy Rogers made his first film appearance in 1935, and adopted the name "Roy Rogers" as a singer and actor in 1938. Roy Rogers legally changed his name in the early 1940s. Roy Rogers achieved fame under the name "Roy Rogers," which is still widely recognized in the United States and throughout the world.

8. Upon information and belief, Applicant did not begin using the name "Roy Rogers" anywhere in the world before 1949.

9. In view of these facts, Opposers have priority because Applicant had knowledge of the public recognition of the name "Roy Rogers" when it filed the application for registration of Applicant's Mark.

FALSE SUGGESTION OF CONNECTION

10. Applicant's Mark falsely suggests a connection with Roy Rogers.
11. Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a), prohibits registration on the Principal Register of a mark which disparages or falsely suggests a connection with persons, living or dead, institutions, beliefs, or national symbols, or which bring them into contempt, or disrepute.
12. The name "Roy Rogers" is recognized throughout the world and in the United States as identifying the late American singer and actor, Roy Rogers.
13. Applicant's Mark is the same as, or a close approximation of, the name or identity of Roy Rogers.
14. Applicant's Mark would be recognized as the name or identity of Roy Rogers, in that it points uniquely and unmistakably to him.
15. Neither Roy Rogers nor Opposers are, or have been, connected with the goods and services described in Applicant's application.
16. The fame or reputation of Roy Rogers is such that, when Applicant's Mark is used with Applicant's relevant goods or services, a connection with Roy Rogers would be presumed.
17. Applicant's Mark falsely suggests a connection with the late American singer and actor, Roy Rogers, and is likely to disparage, bring into contempt, or disrepute the name "Roy Rogers" or otherwise invade upon Roy Rogers' post-mortem rights of publicity, which Opposers seek to protect, because Applicant's Mark is virtually identical to the name "Roy Rogers" and points uniquely to Roy Rogers, whereas neither Roy Rogers nor Opposers are connected with the goods and services associated with Applicant's Mark, and, as a result, purchasers will assume that such goods and services are connected with Roy Rogers and Opposers.

FRAUD

18. Applicant committed fraud in filing its application for Applicant's Mark.

19. Under Section 1(b) of the Lanham Act, 15 U.S.C. § 1051(b), Applicant's U.S. representative signed in connection with the application for Applicant's Mark, on behalf of Applicant, a declaration stating that ". . . to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive"

20. The aforementioned sworn statement is false, in that Applicant's Mark is virtually identical to the name "Roy Rogers," and Applicant was aware that Opposers owned the rights to this name at the time the application was sworn because Applicant had knowledge of the public recognition of the name "Roy Rogers" and previously had contacted Opposers requesting a license to use the "Roy Rogers" name.

21. In view of these facts, the statement made by Applicant in its application set out in Paragraph 19 was made by Applicant with the knowledge and belief that said statement was false. Said false statement was made with the intent to induce the United States Patent and Trademark Office to permit Applicant's Mark to register.

22. For the foregoing reasons, Opposers believe they would be damaged by registration of Applicant's Mark on the Principal Register.

WHEREFORE, Opposers respectfully request that this opposition be sustained against the application for Applicant's Mark, and that the United States Patent and Trademark Office refuse to register Applicant's Mark.

McNEES, WALLACE & NURICK

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Roy "Dusty" Rogers, Jr., as Trustee of The Children's
Trust U/A Roy Rogers and Dale Evans Rogers Trust
and
Happy Trails, LLC

Dated: September 17, 2014

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date a true and correct copy of the **Notice of Opposition** was mailed via Electronic Mail to:

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/Rebecca A. Finkenbinder/
Rebecca A. Finkenbinder

Of Counsel for Opposers
Roy "Dusty" Rogers, Jr., as Trustee of The Children's
Trust U/A Roy Rogers and Dale Evans Rogers Trust
and
Happy Trails, LLC

Dated: September 17, 2014